



INDIANA UTILITY REGULATORY COMMISSION
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IN THE MATTER OF THE INDIANA)
UTILITY REGULATORY COMMISSION'S)
INVESTIGATION OF MATTERS)
RELATED TO THE FEDERAL)
COMMUNICATIONS COMMISSION'S)
REPORT AND ORDER AND ORDER ON)
REMAND AND FURTHER NOTICE OF)
PROPOSED RULEMAKING IN CC)
DOCKET NOS. 01-338, 96-98, AND 98-147)

SEP 09 2003

INDIANA UTILITY
REGULATORY COMMISSION

CAUSE NO. 42500

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") makes the following entry in this Cause:

On August 27, 2003, the Commission issued an Order in this Cause that initiated an investigation into matters related to Federal Communication Commission's Report and Order and Order on Remand and Further Notice of Proposed Rulemaking in CC Docket Nos. 01-338, 96-98, and 98-147 ("Triennial Review Order" or "TRO"). This entry focuses on the ninety-day and nine-month processes assigned to state commissions in the TRO. This entry seeks to identify initial parties to the ninety-day and nine-month processes and solicits recommendations regarding the scope of the proceedings and the procedures to be followed.

I. Initial Identification of Parties.

a. Ninety-Day Proceedings. The Federal Communication Commission's ("FCC's") Triennial Review Order allows this Commission and all other state commissions ninety days from the effective date of the TRO to petition the FCC to rebut the national finding of non-impairment for local circuit switching for customers served by DS-1 or higher capacity loops (enterprise market). Accordingly, any persons (i.e. individuals or entities), wishing to object to this presumption of non-impairment and wishing to participate in a ninety-day proceeding as set forth in the TRO and accompanying rules¹ should, within ten (10) calendar days of the date this docket entry is issued, file a petition with the Commission in this Cause that identifies their interest in a ninety-day proceeding and that specifies their objection to this finding of non-impairment. Any persons wishing to respond to any such petition or petitions and wishing to participate in a ninety-day proceeding as set forth in the TRO and accompanying rules should, within ten (10) calendar days of the date a petition is filed,

¹ TRO ¶ 421 and related paragraphs, and revised 47 CFR 51.319(d).

file a response with the Commission in this Cause that identifies their interest in a ninety-day proceeding and that states their response to the petition. Persons filing such petitions and responses will be considered the initial parties to a ninety-day proceeding in this Cause. Thereafter, any person alleging a substantial interest in the subject matter of any pending proceeding in this Cause may seek to become an intervening party pursuant to 170 IAC 1-1.1-11.

b. Nine-Month Proceedings. The FCC's Triennial Review Order requires this Commission and all other state commissions, within nine months of the effective date of the TRO, to make impairment and/or unbundling determinations, regarding, at a minimum, DS1 loops, DS3 loops, dark fiber loops, dedicated transport for these loops, and DS0 capacity (i.e., mass market) local circuit switching. Accordingly, any persons wishing to challenge a FCC finding of impairment and wishing to participate in a nine-month proceeding as set forth in the TRO and accompanying rules² should, within twenty (20) calendar days of the date this docket entry is issued, file a petition with the Commission in this Cause that identifies their interest in a nine-month proceeding and that specifies their concern or concerns with these impairment and/or unbundling issues. Any persons wishing to respond to any such petition or petitions and wishing to participate in a nine-month proceeding as set forth in the TRO and accompanying rules should, within twenty (20) calendar days of the date a petition is filed, file a response with the Commission in this Cause that identifies their interest in a nine-month proceeding and that states their response to the petition. Persons filing such petitions and responses will be considered the initial parties to a nine-month proceeding in this Cause. Thereafter, any person alleging a substantial interest in the subject matter of any pending proceeding in this Cause may seek to become an intervening party pursuant to 170 IAC 1-1.1-11.

The initial filing of petitions and responses discussed above is not expected to include extensive information supporting a party's position. These initial filings are expected to identify a party's interest in the proceeding and to contain specific statements of a party's position in a context that is relevant to the findings in the TRO that prompt these state proceedings. The form of a party's support for its position will be decided once further determinations have been made by the Presiding Officers regarding the scope of the proceedings and the procedures to be followed. Toward that end, parties filing petitions or responses as described in either of the above paragraphs regarding ninety-day or nine-month proceedings should also include information in these initial filings that is responsive to the issues and questions listed below. Please note if your responses are relevant to a ninety-day proceeding, nine-month proceeding, or both.

II. Information to Be Included in Petitions and Responses to Petitions.

a. Issues. Please list what you believe are the most important issues facing the parties and the Commission in a proceeding addressing the subject petition. Please identify any assumptions you are making in developing this list. In addition, please

² TRO ¶¶ 339, 417, 423, 527 and related paragraphs, and revised 47 CFR §§ 51.319(a), 51.319(d), and 51.319(e)

prioritize these issues and identify any dependencies you believe exist, and appropriate sequencing of issues.

b. Tasks. Please list what you believe are the most important tasks facing the parties and the Commission in a proceeding addressing the petition at issue. Of these tasks, please list the ones that you believe will take the longest time to complete. Please identify any assumptions you are making in developing the lists. In addition, please prioritize these tasks and identify any dependencies you believe exist, and appropriate sequencing of tasks.

c. Processes and Procedures. Please propose any specific processes and procedures that you believe should be used in addressing the petition at issue, keeping in mind the appropriate timeframes the FCC has established in the TRO.

For the processes or procedures you recommend, please include a proposed procedural schedule that identifies the amount of time allocated for the following activities within the time limitations prescribed by the FCC.

- Discovery and data requests
- Comments and filings
- Workshops and/or hearings
- Commission deliberations

Given the time constraints imposed by the FCC on these proceedings, please comment on the appropriateness of using (1) technical conferences or workshops; (2) paper-only filings; (3) joint filings by parties with common interests; (4) page limits for filings; (5) evidentiary hearings with bench questions but no cross examination; and (6) full evidentiary hearings.

Parties proposing a full evidentiary hearing in either a ninety-day or nine-month proceeding should identify the material factual issues in dispute that they believe warrant an evidentiary hearing.

Please suggest any other methods for streamlining the processes and procedures to be used in the proceedings, keeping in mind the timeframes the FCC has established in the TRO.

d. Negotiations, Settlements, and Stipulations. Please comment on the likelihood of parties reaching a settlement agreement or making stipulations on at least some of the substantive issues. To the extent you believe that settlement or stipulations may be possible, please identify the specific issue or issues involved. If available, please cite to any relevant agreements or stipulations that have been proposed or reached in other states' implementation of any part of the TRO.

e. Multi-State Coordination. To what extent can and should state commissions coordinate efforts in either ninety-day or nine-month proceedings, to allow


maximum efficiency and effectiveness? Should such coordination be at the RBOC or total company level (e.g. SBC or Verizon states), at the regional level (e.g., SBC Midwest states, Verizon North states, etc.), or at some other level? If the latter, please identify the specific level you believe is appropriate, including the specific states with which you believe the Commission should coordinate its efforts.

Are there specific functions, tasks, or issues that are better suited for some type of multi-state coordination? Please identify and explain. Are there specific functions, tasks, or issues that are not well suited for some type of multi-state coordination? Please identify and explain. At a minimum, please consider the following functions and tasks in your response to these questions on multi-state coordination:

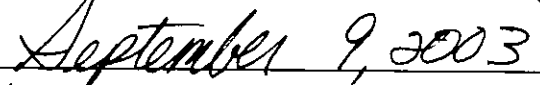
- Coordination of discovery questions, responses, and schedules
- Coordination of filings and due dates
- Coordination of schedules of expert witnesses and legal counsel for meetings and/or hearings
- Technical conferences/workshops

f. Additional Input. Please include any additional comments or recommendations you have regarding the scope of the proceedings; the prioritization and sequencing of issues, functions, and tasks; and recommended processes or procedures for either the ninety-day or nine-month proceedings.

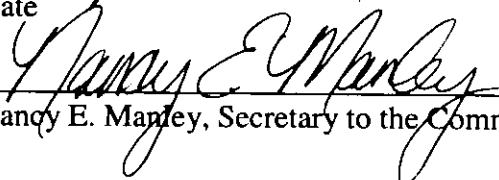
IT IS SO ORDERED.



William G. Divine, Administrative Law Judge



Date



Nancy E. Manley, Secretary to the Commission